

ST. JOHN'S CHURCH CASE IN COURT

City's Application for an Injunction Vigorously Opposed. Lengthy Answer.

GRAVES NOT BE DISTURBED

Judge Ingram Declines to Refer Matter to Commissioner for Present.

Judge Ingram, of the Law and Equity Court, yesterday heard the reply of St. John's Church to the application of the city of Richmond for an injunction to prevent the authorities of the church from building a new chapel on the grounds and otherwise changing the appearance and conditions of the property. He also heard the arguments of counsel for both sides, and took the case under advisement, declining for the present to refer the controversy to a commissioner. It will be some time, possibly several weeks, before Judge Ingram renders a decision.

History of Case. The officials of the church proposed to erect a memorial chapel on the grounds and in order to do so it became necessary to change the appearance of the grounds somewhat, and it is claimed this will necessitate the covering up of several graves in which lie the ashes of citizens who passed hence many years ago. The city, which has acquired certain rights pertaining to the care of the grounds and the old cemetery, opposed this move and seeks to prevent it by injunction proceedings. City Attorney Pollard some weeks ago filed a bill praying for a permanent injunction to that effect, and yesterday was the day set for hearing the reply of the vestry to this bill.

The reply was filed by Messrs. John B. Welsh, a member of the vestry and a lawyer, and by his associate, Mr. D. C. Richardson.

It is a lengthy document, covering more than a dozen typewritten pages, on which are recorded much of the ancient history of the church.

A Different View.

The answer admits most of the historical facts brought out in the bill filed by the city, and the contract between the vestry and the city made long years ago, but places a different construction on the contract from that placed upon it by the city attorney. While the legal points in the case are many and interesting, much seems to hinge upon the fact as to whether the building of the proposed chapel will desecrate the graves in the old cemetery. The city claims that it will, and the church people undertake to show that it will not.

The attorneys in the case being unable to agree upon certain facts in the case, the vital fact being as to the matter of desecration of graves, and therefore a jury trial was ordered, and a commissioner appointed to inquire into this fact and report his conclusions to the court.

A Question of Law.

Mr. Richardson, for the congregation, denied that the work proposed to be done would be a desecration of graves and contended that the point at issue was a question of law for the court to decide and not a question of fact for a commissioner. In the city's bill that the church has the title to the lots numbered 37 and 38 and held the title to lots 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

And they will not desecrate graves, but they have not determined on the exact location. First, they want to know if they have a right to control their own property, and this, he contended, is the only question before the court at this time.

No Commission Yet.

Mr. Pollard insisted that the proposed improvement would "disturb" a number of graves and cover up others. He mentioned as in jeopardy the resting place of Mary Berkeley, who died in 1743, and likewise other graves. Furthermore, he declared that the answer of the vestry stated that the remains will not be disturbed—not that the graves will escape desecration. At this point Judge Ingram decided not to name a commissioner for the present, but to consider the papers which were read. The documents being lengthy, the reading was continued nearly all of the morning hours of the court.

The answer of the vestry declares that the new building will not be placed as to disturb those buried there. The ground has been gone over with care, and it has been positively ascertained that no graves will be disturbed and this seems to be the whole contention.

The answer is very interesting from a historical viewpoint in that it brings out facts which, while known, have been forgotten.

The vestry claims that the city has been recreant to its trust, and has not kept up the grounds as it should, and therefore, even if it had authority to stop any improvements to the church grounds, it would be forfeited by the failure to look after the trust. As it is, however, the vestry asserts that

The Peruna Tablets.

Special Telegram.

Columbus, Ohio, Sept. 15.—The interesting announcement is made in the drug trade and to the people generally, that Dr. Hartman and his assistants, after two years' experimentation, have succeeded in producing a curative tablet for the liquid Peruna. Dr. Hartman will still continue to manufacture Liquid Peruna as before. The Peruna Tablet is therefore not intended to supplant Liquid Peruna, but is to be furnished to the drug trade so that those who prefer to take Peruna in tablet form can have the privilege of doing so. The Peruna Tablet is a special interest to hundreds of thousands of people who have used Peruna for many years. The fact that Peruna can now be used in tablet form will be especially gratifying to people who are subjected to constant exposure and carelessness, and who find it difficult, if not impossible, to carry with them the Liquid Peruna. A package of the Peruna Tablets carried in the pocket by people whose business exposes them to climatic changes will be the means of saving great many people from fearful troubles which are the bane of American civilization.

"Berry's for Clothes"

CLEVER CLOTHES SHOP

The Century Dictionary says, "CLEVER MEANS WELL SHAPED, HANDSOME," so this word applies particularly well to our stock.

We have everything for men and boys' wear and it is all up to the standard that the word clever means—it's well shaped and handsome. You will find it satisfactory in every way—or we will make it satisfactory.

No trade is complete at our store till the customer is satisfied.

If you can't call write, or phone.

O. H. Berry & Co.
MEN'S & BOYS' OUTFITTERS

The city has absolutely no authority over the two lots given by William Bryd, and announce their intentions of fighting to the end.

COMMISSIONERS ARE INDICTED

Howard County Officials Are Charged With Malfeasance in Office.

BALTIMORE, MD., September 14.—Indictments were returned to-day by the Howard county grand jury against County Commissioners B. F. Hesse (the president), and Jacob J. Werner, members of the present board, and Thomas O'Neill, member of the former board.

Commissioner Werner is charged with malfeasance in office and accepting a contract involving the sum of \$844, and the other two members are charged with unlawfully accepting the same.

The accused have been held under bail for a hearing. Commissioner Werner is the nominee for re-election on the Democratic ticket.

DR. CHARLES FINLAY GETS MARY KINGSLEY MEDAL

LIVERPOOL, Sept. 14.—The Mary Kingsley medal, instituted by the Liverpool school of tropical medicine, is conferred upon Dr. Charles Finlay, the African traveler, who has been awarded, among others, to Dr. Charles Finlay, chief sanitary officer of Cuba, who originated the theory that yellow fever is carried by mosquitoes; to Colonel W. C. Gorgas, United States army, who, as chief sanitary officer at Havana, gave practical effect in 1902 to the discoveries of Dr. Finlay and the American commission in connection with the investigation of the cause of yellow fever, and succeeded in banishing the disease from Havana, and to Dr. Theophil Smith, of Harvard, who discovered a new kind of blood parasite in his investigations of the so-called Texas cattle fever.

Colonel Gorgas is now chief sanitary officer of the Panama canal zone.

DEFECTIVE CHORD CAUSES DISASTER

D. B. Haley Gives Important Testimony Before Government Commission.

QUEBEC, Sept. 14.—D. B. Haley, president of the local bridge workers' union, and employed here since June last by the Phoenix Bridge Company, gave evidence yesterday before the government commission which threw a new light on the case. This witness was on the bridge when the bridge collapsed and went down with it, being rescued by a boat from the opposite side.

According to this witness, he and several companions on the bridge had noticed defects in the bridge. One of them was in the chord just outside of the cantilever arm, the first one outside of the main diagonal on the Quebec side. All the four webs of the chord were giving away. The diagonal was bent down in some places and up in others, while some showed signs of kinking. About 10 feet of the chord seemed in this condition.

This examination was made on the eve of the accident.

MR. FLOOD SAYS BRYAN WILL RUN

Virginia Congressman Is for Daniel, but Will Not Further Specify.

Times-Dispatch Bureau, Munsey Building, Washington, D. C. Sept. 14.

Representative H. D. Flood, of the Tenth Virginia District, was in the city yesterday, attending to a variety of matters at the departments for constituents. He was at the War Department urging the claims of a Mr. Peck, of Hampton, S. E. M. graduate, for appointment to a second lieutenant in the regular establishment.

He saw the post-office people concerning the re-establishment of the post-office at Mount Meridian, in Augusta county, recently abolished because of the location of a rural free delivery route, promised that an inspector should be sent thither at once, and investigate and receive the protests of the patrons who want the office retained.

"Bryan is going to be the candidate," he said, when asked concerning the probabilities in the presidential campaign for Senator Daniel, if he will allow his name to go before the convention.

"But suppose his name is not presented, or is withdrawn after being presented?" I asked.

"I am never for but one man at a time," he replied with a laugh.

Mr. Flood went to Charlottesville in the afternoon to spend the night with Senator Martin.

MRS. EARLE GOES TO FATHER'S HOME

Upon Arrival in France She Talks With Reporters Frankly.

LIFE WRAPPED UP IN HER BOY

Has No Other Plans Now Than to Get Divorce Speedily—Good Wishes for Earle.

NEW YORK, Sept. 14.—Special despatches from Boulogne, France, in reporting the arrival there of Mrs. Ferdinand Pinney Earle, wife of the American artist, who has voluntarily relinquished her husband to an "affinity" state that during the voyage Mrs. Earle faced her strange situation with a singular generosity toward both her husband and her rival. The depression which she admitted, had almost overcome her at the outset of the voyage, is described as having completely disappeared. To the reporters who awaited her at the Boulogne landing stage she recited the story of matrimonial life with simple directness, devoid of bitterness. "I am convinced," she said, "that this is the only solution. I have neither jealousy of Miss Kuttner nor feeling against Mr. Earle. It is ordained by fate. She is a woman of excellent character and I am convinced my husband will be happy with her. My future, ah! that remains to be talked over with my father. My life is wrapped up in my boy. He asks after his father now, but he will soon forget. I hope to make him, first, a goodman." Mrs. Earle will resume her maiden name after the divorce and live as if Earle had never existed.

AT SKATING RINK

Several Interesting Racing Events Scheduled For Friday Night.

At the Skating Rink at Tidewater this week an engagement extraordinary is offered in the Ceyling Corgwells, whose act is pronounced by press and public throughout America, wherever they have appeared, to be one of the greatest of its kind before the public. Not only on ice cycles but unicycles, wheels of any and all kinds, in fact, anything that rolls, they can ride almost as easily as they can walk. The act ends with a sensational and daring dash down a chute.

An entirely new series of moving pictures will be shown.

On Friday night several interesting racing events will be pulled off. One of them will be a mile dash between Moore and Fieg, two of the fastest skaters on the local floor.

STRUCK BY ICE WAGON

Mr. Arrington Knocked From Car, But Not Seriously Hurt.

Mr. H. F. Arrington, who resides at No. 223 Venable Street, while riding west on a car at Eighteenth and Main yesterday morning, was struck by a passing ice wagon. The ice wagon made a slight cut in the man's side and later he fell from the car, cutting an ugly gash in his head. The ambulance responded, and Dr. Hinchman attended the wounded man and took him to his home. Though his wounds are not serious, they are not at all serious, and Mr. Arrington will probably be out in a few days.

THURMAN'S COUNSEL TO MAKE STENOGRAPHIC FIGHT

NORFOLK, VA., September 14.—After having spent his vacation in Annapolis county and at the Cold Sulphur Springs, Va., Attorney James S. Martin, counsel for Leo C. Thurman, convicted of the murder of Walter P. Dolson, returned this morning.

Mr. Martin says that he has been formally advised that the Court of Appeals has granted his client a writ of habeas corpus, and will hear argument upon the motion for a new trial. It is not known upon what grounds that a writ of error was granted.

Free Catarrh Cure

If You Continually Cough and Spit, If There is a Constant Dripping from the Nose into the Throat, If You Have Foul, Stinking Breath, that is Catarrh, and I Can Cure It.

Let Me Send You a Free Trial Package of My Remedy.

Catarrh is not only dangerous, but it causes bad breath, ulceration, death and decay of bones, loss of thinking and reasoning power, kills ambition and energy, often causes loss of appetite, indigestion, dyspepsia, raw throat and consumption. It needs attention at once. Cure it with Gauss's Catarrh Cure. It is a quick, reliable, permanent cure, because it hits the system of the poisonous germs that cause catarrh.

In order to prove to all who are suffering from this dangerous and loathsome disease that Gauss's Catarrh Cure will actually cure any case of Catarrh quickly, no matter how long standing or how bad, I will send a trial package by mail free of all cost. Send your name and address to-day, and the treatment will be sent to you by return mail. Try it! It will positively cure so that you will be welcomed instead of shunned by your friends.

C. E. GAUSS, 415 Main St., Marshall, Mich. Fill out coupon below.

FREE.

This coupon is good for one trial package of Gauss's Combined Catarrh Cure, mailed free in plain package. Simply fill in your name and address on dotted lines below and mail to C. E. GAUSS, 415 Main St., Marshall, Mich.

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